

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

1. ALICE HENSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-16-282-W
	)	
2. CSAA GENERAL INSURANCE,	)	
COMPANY,	)	
	)	
Defendant.	)	

**SECOND AMENDED PETITION**

COMES NOW Plaintiff, Alice Henson, by and through her attorney, Scott Gallagher, Little, Oliver and Gallagher, and for her cause of action against Defendant, CSAA General Insurance Company, pursuant to Fed. R. Civ. P. 15, for its second amended petition against Defendant, CSAA General Insurance Company states and alleges as follows:

**COUNT I**

1. Alice Henson is a citizen and resident of Cleveland County, Oklahoma.
2. The accident occurred on or about the 16<sup>th</sup> day of March, 2015, in Oklahoma City, Oklahoma County, Oklahoma.
3. Darline McCarthy negligently drove her vehicle through a red traffic light, striking Plaintiff's vehicle in which she was a passenger, causing severe injury to Plaintiff. Darline McCarthy had liability insurance of \$25,000.00 per person that was paid and subrogation was waived by the Defendant, CSAA General Insurance Company.

4. Liability insurance carried by Darline McCarthy is with Nationwide Property & Casualty Insurance Company with \$25,000.00 limits per person.
5. The liability limits were offered by Nationwide Property & Casualty Insurance Co.
6. Pursuant to 36 O.S. § 3636 we provided this amount to our uninsured/underinsured motorist carrier.
7. Plaintiff's uninsured/underinsured carrier waived subrogation on March 23, 2016.
8. Plaintiff had an insurance policy with CSAA General Insurance Company, formerly known as AAA Insurance Company, policy number OKSS-202906150.
9. The insurance policy written by Defendant and paid for by Plaintiff provided \$50,000.00 per person insurance of uninsured/underinsured motorist coverage.
10. Uninsured/underinsured motorist by the insurance policy is designed to protect Plaintiff in the situation where Plaintiff is involved in an accident and the person that causes the accident does not have enough insurance to cover the damages caused.
11. In this case, Plaintiff sustained knee, back and neck injuries caused by the negligence of Darline McCarthy.
12. In this case, Plaintiff sustained \$27,068.76 in medical bills caused by the negligence of Darline McCarthy.
13. In this case, Plaintiff sustained damages more than the \$25,000.00 liability insurance carried by Nationwide Property & Casualty Insurance Co.
14. In this case, Plaintiff paid for uninsured/underinsured motorist coverage to protect her.

15. Plaintiff had fulfilled her end of the contract by complying with all terms of her end of the agreement.
16. Plaintiff made a demand for the \$50,000.00 uninsured/underinsured motorist coverage.
17. CSAA General Insurance Company, formerly known as AAA Insurance Company, would not pay the \$50,000.00 limit and offered to resolve this matter for \$2,200.00.
18. CSAA General Insurance Company has not fulfilled their end of the contract and is in breach of the uninsured/underinsured contract.

### **COUNT II**

19. Defendant has breached the contract by not providing uninsured/underinsured benefits for the damages in this case.
20. Defendant's actions are unreasonable.
21. Defendant's actions are in bad faith and not in good faith. Good faith consists of an honest intention to abstain from taking any unconscientious advantage of another, even through the forms or technicalities of law, together with an absence of all information or belief of facts which would render the transaction unconscientious.
22. Defendant's actions acted to withhold a benefit owed to its insured under the terms of the policy.
23. Defendant's actions of an offer of \$2,200.00 and their evaluation in this case is in bad faith.

WHEREFORE, Plaintiff respectfully requests this Court enter its order for damages against the Defendant, CSAA General Insurance Company in the amount of \$50,000.00 for breach of contract and \$50,000.00 for bad faith, and for attorney fees, court costs and/or any other award that is allowed by law.

Respectfully Submitted,

LITTLE, OLIVER & GALLAGHER



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